

# **Exhibit 53**

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ROSS UNIVERSITY SCHOOL OF )  
MEDICINE, )  
Plaintiff )  
VS. ) C.A. NO. 09CIV1410  
BROOKLYN QUEENS HEALTH CARE, )  
ET AL, )  
Defendants )  
----- )

TELEPHONIC DEPOSITION OF JOHN N. KASTANIS, taken  
at the request of the plaintiff pursuant to the  
applicable Rules of Civil Procedure before Carol A.  
Whitney, a Notary Public and Certified Shorthand  
Reporter in and for the Commonwealth of Massachusetts,  
on July 7, 2011, commencing at 10:00 A.M. at the  
offices of John N. Kastanis, Quincy Medical Center,  
114 Whitwell Street, Quincy, Massachusetts.

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2  
3 APPEARANCES:  
4  
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3 I N D E X  
4  
5 DEPONENT: JOHN N. KASTANIS  
6  
7 PAGE  
8 EXAMINATION BY MS. WHITTLESEY:

EXPLANATION BY MR. WHITFIELD.

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1 PROCEEDINGS  
2 MS. WHITTLESEY: Mr. Kastanis, my name is Gillian  
3 Whittlesey. I'm here on behalf the plaintiff Ross  
4 University School of Medicine. Mr. Loughlin is here  
5 on behalf of the defendants BQHC and Wyckoff. Ms.  
6 Hoey is here on behalf of you, and --  
7 MS. HOEY: Excuse me. We got cut off, Gillian.  
8 Go ahead.  
9 MS. WHITTLESEY: Oh, did I?  
10 MS. HOEY: Go ahead. I'll just start over. Mr.  
11 Kastanis, my name is Gillian Whittlesey. I'm here on  
12 behalf of the plaintiff Ross University School of  
13 Medicine. We also have Mr. Loughlin on the line on  
14 behalf of the defendants, and we have Ms. Hoey on the  
15 line, also, who is your counsel.  
16 Mr. Kastanis, is the court reporter there with  
17 you?  
18 THE WITNESS: Yes, she is.  
19 MS. HOEY: Gillian, this is Barbara. For some  
20 reason when you're talking there's like an echo. Are  
21 you on a speaker phone?  
22 MS. WHITTLESEY: Yes. Let me try something. All  
23 right. Shall we enter appearances? This is Gillian  
24 Whittlesey with Baker Hostetler on behalf of the  
25 plaintiff Ross University School of Medicine.

1	Q. Were you a party in that case?	1	impair your ability to testify today?
2	A. I'm not sure what that question --	2	A. No.
3	Q. Were you the plaintiff or defendant in that case?	3	Q. Okay. Mr. Kastanis, how did you prepare for this deposition?
4	A. No.	4	A. I conferred --
5	Q. Okay. I'm going to go over a few things about how the deposition will go just to make sure we're all on the same page. As you know, since you've been through this before, I will be asking questions. The court reporter will be recording both my questions and your answers.	6	MS. HOEY: Excuse me. Objection. I would just caution the witness not to reveal in the answer any conversations he had with counsel.
11	I don't think we'll run into these problems as often because we're doing this over the phone, but it's important that you answer your questions orally, using clear language. I don't think we'll run into any nodding of the head here, but if you could refrain from things like uh-huh or um-hmms and use yes or no, that would be a benefit to the court reporter.	9	Q. Correct. Nothing about the substance of what was said, but the fact that you met with counsel is fine to answer about.
18	Also, since we've run into some technical difficulties already, if I ask a question and you don't understand it or can't hear for any reason, please let me know, and I'm happy to restate or rephrase the question. Is that fair for you?	12	MS. HOEY: Objection. Go ahead, Mr. Kastanis.
23	A. Yes, it is.	13	A. I conferred with counsel, and I reviewed the exhibits that were provided to me.
24	Q. Great. Also, if I ask a question and you provide an answer, I'm going to assume that you understood and	15	Q. How many times did you confer with counsel?
25		16	A. I don't recall.
		17	Q. Do you recall for how long you conferred with counsel?
		18	A. It was briefly.
		19	Q. More than an hour?
		20	A. No.
		21	Q. Okay. Was that done over the phone?
		22	A. Yes.
		23	Q. Did you review any other documents besides the exhibits we provided?
		24	A. No.
		25	

1	heard the question. Is that fair?	7	
2	A. Yes.	1	Q. Did you speak with anyone besides your attorney in preparing for this deposition?
3	Q. Okay. As I stated earlier off the record, I don't expect this deposition to last more than an hour, maybe an hour and change, but if at any point you need a break, just let me know.	2	A. No.
4	I just ask that if there is a question pending that you finish answering the question before we take a break. Is that fair?	3	Q. You did not speak with anybody at BQHC or Wyckoff in preparation?
5		4	A. Yes, I did.
6		5	Q. Who did you speak with?
7		6	A. I spoke with David Hoffman about who would represent me.
8		7	Q. Okay. And who is representing you?
9		8	A. Barbara Hoey.
10	A. Yes.	9	Q. Are you paying for your own legal expenses and attorneys' fees?
11	Q. Also, as we proceed if it ever occurs to you that a previous answer was either incomplete or not completely accurate, just let me know, and we can take time to make the necessary corrections to your previous answers.	10	A. To my knowledge --
12	Have you taken any medications or drugs this morning that could impair your ability to understand and answer my questions today?	11	MS. HOEY: Objection. I would direct the witness not to answer.
13		12	THE WITNESS: Okay. I'm not answering.
14		13	MS. HOEY: Whatever arrangement has been made between Mr. Kastanis and my firm is not and should not be the subject of this.
15		14	MS. WHITTLESEY: Is your objection on the basis of privilege?
16		15	MS. HOEY: Yes. I'm directing him not to answer.
17		16	Q. Okay. Moving forward. When you spoke with Mr. Hoffman, did you take any notes?
18		17	
19	A. Only caffeine.	18	
20	Q. Okay. I've had that myself. Have you had anything alcoholic to drink in the last eight hours?	19	
21		20	
22	A. No.	21	
23	Q. Are you in any way feeling ill today?	22	
24	A. No.	23	
25	Q. Can you think of any reason or anything that could	24	
		25	

1 A. No.  
 2 Q. Did you discuss anything aside from who would be  
 3 representing you?  
 4 A. No.  
 5 Q. When did you retain Littler Mendelson, Ms. Hoey, as  
 6 your counsel?  
 7 MS. HOEY: Objection. I'm directing him not to  
 8 answer. Ms. Whittlesey, this is really going  
 9 overboard in terms of how he retained counsel and who  
 10 he retained. I'm representing him. You said you  
 11 wanted to take the man's deposition.  
 12 He's employed at another institution as a CEO of  
 13 a hospital that is in the middle of its own series of  
 14 crises. Mr. Kastanis has a lot on his plate right  
 15 now. Why don't you get to the guts of the questions  
 16 you need to ask and not about the arrangements he's  
 17 made and how he made arrangements to retain counsel  
 18 for the deposition. I'm instructing him not to  
 19 answer. Move on.  
 20 MS. WHITTLESEY: I would argue that these  
 21 questions are relevant.  
 22 MS. HOEY: How?  
 23 MS. WHITTLESEY: I will also argue that your  
 24 speaking objections are inappropriate. I respect any  
 25 objections you have as long as they're made in a

1 financial distress? Are there any common  
 2 characteristics your clients have when they seek your  
 3 services?  
 4 MS. HOEY: Objection to form. You can answer, if  
 5 you understand the question.  
 6 Q. You can answer, Mr. Kastanis.  
 7 A. I've taken on traditional executive leadership roles,  
 8 which require everything, expansion of programs,  
 9 financial challenges, labor management issues, et  
 10 cetera, all the traditional roles of a hospital CEO.  
 11 Q. When you're brought in on the interim basis, why are  
 12 you brought in?  
 13 MS. HOEY: Objection to form. Are you asking him  
 14 what has occurred over 30 years or are you asking him  
 15 about specific assignments?  
 16 Q. I'm just asking generally if there is anything. If  
 17 there's no common characteristics, it's fine to answer  
 18 that there aren't any common characteristics.  
 19 MS. HOEY: That wasn't your last question. Court  
 20 Reporter, can you read back the last question.  
 21 (The reporter read back the record as requested.)  
 22 MS. HOEY: That's the question I'm objecting to,  
 23 Gillian. What do you mean "when you're brought in on  
 24 an interim basis"?  
 25 MS. WHITTLESEY: He said that more recently he's

11  
 1 concise manner.  
 2 MS. HOEY: You should move on.  
 3 Q. Moving forward, Mr. Kastanis, let's get into you and  
 4 your background. Can you describe your career  
 5 history, specifically your roles as an executive. We  
 6 don't have to go into every detail, but...  
 7 MS. HOEY: Objection to form.  
 8 Q. Mr. Kastanis, will you describe your career history.  
 9 A. My attorney's objecting.  
 10 MS. HOEY: Excuse me, John. You can answer the  
 11 question as long as I haven't directed you not to  
 12 answer. I just made an objection to form. You can  
 13 answer, if you understand.  
 14 A. I've spent the past 30 years plus working my way up in  
 15 hospital and health systems operations. I've had  
 16 extensive experience in leadership roles running urban  
 17 and suburban teaching hospitals predominantly in the  
 18 New York metropolitan area, and I am currently a  
 19 consultant providing interim CEO services to various  
 20 clients, including the one I'm with now.  
 21 Q. What characteristics do your clients have?  
 22 MS. HOEY: Objection to form. Can you clarify  
 23 what you mean by "characteristics," Ms. Whittlesey?  
 24 Q. More specifically, when you're retained, are your  
 25 clients looking to expand, are they in any kind of

13  
 1 been working, being brought in on an interim basis.  
 2 MS. HOEY: Okay.  
 3 Q. In the instances when you've been brought in on an  
 4 interim basis, not for more of a permanent position,  
 5 why have you been retained?  
 6 A. Simply because there's a vacancy.  
 7 MS. HOEY: Objection.  
 8 Q. How did you obtain your position at Caritas Health  
 9 Care?  
 10 A. I was called by a representative from the Caritas  
 11 board.  
 12 Q. Who called you?  
 13 A. I don't remember.  
 14 Q. When did you receive that call?  
 15 A. It was to the best of my recollection, it was in  
 16 November of 2008.  
 17 Q. Were you employed at the time you received that call?  
 18 A. I was not.  
 19 Q. What was discussed during that phone conversation?  
 20 A. There was a need, an immediate need for a leadership  
 21 role at Caritas Health.  
 22 Q. And what role was that?  
 23 A. That was the CEO position.  
 24 Q. Was there any discussion of what that position would  
 25 require of you?

1	A. Yes.	1	is not a news flash to you.
2	<b>Q. What was discussed?</b>	2	MS. WHITTLESEY: I'm looking for Mr. Kastanis' testimony here.
3	A. I don't remember all the details. What I do recall, just in general, was that the Caritas health system was in financial and operational trouble, and they needed someone with extensive experience to step in and assist the board in running the day-to-day operations of the health system.	4	MS. HOEY: I don't understand what your question is.
9	<b>Q. Did they communicate how they found you?</b>	6	<b>Q. Mr. Kastanis, did you understand the question?</b>
10	A. Not specifically, no.	7	A. Not fully.
11	<b>Q. Do you know why they contacted you?</b>	8	MS. WHITTLESEY: Court Reporter, would you read it back.
12	A. Because of my extensive background in hospital administration.	9	(The reporter read back the record as requested.)
14	<b>Q. Now, what other -- approximately how many hospitals did you work at before Caritas?</b>	11	<b>Q. Mr. Kastanis, do you understand that question?</b>
15	A. That's going to take a few minutes. Hold on.	12	A. It's very broad, so I'm not quite sure.
17	<b>Q. Take your time.</b>	13	<b>Q. Okay. I can rephrase it. From the time you began at Caritas until you left Caritas, how did the financial state of the hospital evolve?</b>
18	A. Four hospitals.	14	A. Well, the hospital had already been financially challenged, and I addressed all of the financial issues that were at hand.
19	<b>Q. What positions did you have at those four hospitals?</b>	19	<b>Q. When did it become clear that Caritas would go into bankruptcy?</b>
20	A. I was a VP for operations and also at the executive level.	21	MS. HOEY: Objection to form.
22	<b>Q. In total, how many years were you working at those four hospitals?</b>	22	<b>Q. You may answer, Mr. Kastanis.</b>
24	A. At that point, it was 30 years.	23	A. That was probably right after the new year, early January 2009.
25	<b>Q. Did you ever hold any positions at Wyckoff or BQHC?</b>	25	<b>Q. How was the decision to go into bankruptcy made?</b>

15		17	
1	A. No.	1	MS. HOEY: Objection to form.
2	<b>Q. And how long did you work at Caritas?</b>	2	<b>Q. You may answer.</b>
3	A. I worked as the interim CEO for approximately three months, and then we went into bankruptcy. Then I just continued working on a consultative basis for the balance of the year 2009.	3	MS. HOEY: If you know the answer, Mr. Kastanis, you can answer.
7	<b>Q. Would you describe your time at Caritas, what your roles were?</b>	5	A. All right. Thank you. The hospital at that juncture or I should say the health system at that juncture was dependent on continuing borrowings from the New York State Department of Health and the Dormitory Authority, and we were officially informed that we would no longer have access to those borrowings.
9	MS. HOEY: Objection. He just described his roles.	11	<b>Q. When you learned you wouldn't have access to those borrowings, that was the trigger for filing for bankruptcy or knowing you would have to file for bankruptcy; is that correct?</b>
11	<b>Q. Well, will you describe your time at Caritas in terms of the health of Caritas as an institution when you were there?</b>	15	A. That is correct.
14	MS. HOEY: Objection to form.	16	<b>Q. Who was involved in that decision-making process?</b>
15	<b>Q. You may answer.</b>	17	A. The board of trustees of Caritas Health, my office and also the Brooklyn Queens Health Care Corporation.
16	MS. HOEY: Gillian, can you explain what you mean by the health of the institution? I don't know if that was a pun intended. It's a healthcare institution.	19	<b>Q. When you say your office, who all was part of your office?</b>
20	MS. WHITTLESEY: No, it wasn't an intended pun. He said he was brought in because it was in financial distress.	21	A. It was my management team, but it was my office. It was the CEO. It was predominantly me and the board.
23	MS. HOEY: Well, he just answered the question, saying that approximately three months after he was hired the institution filed bankruptcy, which I think	23	<b>Q. Okay. Did you work with any specific people routinely?</b>
25		25	A. Yes.

1 Q. Anyone outside of like an administrative assistant  
 2 role, if you could provide some names who you worked  
 3 with?  
 4 A. I worked with the management team, the vice  
 5 presidents, and I'm going to have a tough time  
 6 recalling their names right now. I worked with the  
 7 board of trustees, with the chair Emil Rucigay, the  
 8 vice chair, Vincent Arcuri, and all the other  
 9 trustees. I worked with legal counsel.  
 10 Q. Do you recall any of the names of people on the  
 11 management team?  
 12 A. I have two – yes, I could probably remember two vice  
 13 presidents' names right now.  
 14 Q. Who were they?  
 15 A. Christopher Mastromanno and -- I'm having problems  
 16 remembering another name.  
 17 Q. If you remember, just let me know. We can always come  
 18 back to it. Who did you report to at Caritas?  
 19 A. To the board of trustees at Caritas.  
 20 Q. Who reported directly to you?  
 21 A. The vice presidents at Caritas Health.  
 22 Q. And what were their names?  
 23 A. The names of?  
 24 Q. Are the vice presidents different from the management  
 25 team?

19  
 1 A. No. It's one in the same. I just had another recall  
 2 of another vice president's name. Her name was  
 3 Annette Hastings, H-a-s-t-i-n-g-s.  
 4 Q. Okay.  
 5 A. I also worked with in-house general counsel Clara  
 6 Mullally.  
 7 Q. Okay. Were you finished?  
 8 A. M-u-l-l-a-l-y, Mullally.  
 9 Q. Thank you. Did you work with anyone at BQHC or  
 10 Wyckoff?  
 11 A. At BQHC, I worked with the chief restructuring officer  
 12 John Lavin, L-a-v-i-n.  
 13 Q. Anyone else?  
 14 A. No. Those are the persons I dealt with directly.  
 15 Q. Anyone at Wyckoff?  
 16 A. No.  
 17 MS. HOEY: Objection to form. Go ahead.  
 18 Q. All right. Did your responsibilities at Caritas  
 19 change once the decision was made to go into  
 20 bankruptcy?  
 21 A. I'm not sure what you mean by that question.  
 22 Q. Was your role as CEO of Caritas any different once you  
 23 were going into bankruptcy and you knew Caritas would  
 24 not be continuing as a hospital?  
 25 MS. HOEY: Objection to form.

1 Q. You may answer, Mr. Kastanis.  
 2 MS. HOEY: It's a compound question. You can  
 3 answer, if you understand it.  
 4 A. It's as it would in any situation where you're filing  
 5 Chapter 7 for liquidation and closure, yes, it did  
 6 change.  
 7 Q. How did it change?  
 8 A. The priorities were to focus on a safe and orderly  
 9 closure vis-a-vis state regulations and guidelines on  
 10 how to do that.  
 11 Q. Did you work with any other people in planning for the  
 12 closure than you did on a regular basis before the  
 13 closure?  
 14 A. Yes.  
 15 Q. And who were those people?  
 16 A. The New York State Department of Health.  
 17 Q. Anyone internally?  
 18 A. All of the management staff and physician leaders.  
 19 Q. When you say "all," is that all at Caritas or all at  
 20 the hospital system, including Wyckoff and BQHC?  
 21 A. All at Caritas Health.  
 22 Q. All right. Mr. Kastanis, I'd like to draw your  
 23 attention to Exhibit 11. Do you have that in front of  
 24 you?  
 25 A. I will in a moment.

21  
 1 Q. Okay.  
 2 A. Yes, I do.  
 3 Q. Exhibit 11 is bates range ROSS022148 through Ross  
 4 022149. Mr. Kastanis, are you familiar with this  
 5 exhibit?  
 6 A. Not really.  
 7 Q. Have you ever seen this exhibit before?  
 8 A. I'm copied on it, so I'm assuming that I did see it.  
 9 Q. Okay.  
 10 MS. HOEY: Mr. Kastanis, I would caution you if  
 11 you don't recall for a fact receiving something,  
 12 please do not assume that you received it.  
 13 Q. Mr. Kastanis, on the what appears to be the third  
 14 e-mail down in this chain, do you see where it says  
 15 "From: Julius Romero," the third e-mail down sent on  
 16 January 27 at 12:21 P.M.?  
 17 A. Yes.  
 18 Q. "To: Claire Mullally," and you were copied, correct?  
 19 A. Yes.  
 20 Q. Okay. Do you recall receiving this e-mail?  
 21 A. I don't.  
 22 Q. Looking at the first sentence, "We still have an  
 23 active contractual obligation with the schools and  
 24 their students, but will leave the legalities to you  
 25 and David."

1	Do you have any understanding of what that meant?	1	Q. When you say you did not know the details, did you not know at all that they were for providing clerkships or did you not know the numbers of clerkships and the pricing? I'm unclear what you mean when you say "details."
2	A. No.	2	MS. HOEY: Objection to form.
3	Q. Do you know why you were copied on this e-mail?	3	A. I did not know the details of the arrangement.
4	A. No.	4	Q. Can you explain what "details of the arrangement" means? Can you expand on that?
5	Q. Do you know who Julius Romero is?	5	MS. HOEY: Objection to form.
6	A. No.	6	Q. You can answer.
7	Q. Did you have any interaction with Mr. Romero while working at Caritas?	7	A. Again, I didn't have time to focus on this matter.
8	A. I don't recall.	8	There were other priorities.
9	Q. At the end of that e-mail in Exhibit 11, the third down is a signature block, Julius Romero signature block. Do you see that?	9	Q. Did you have any conversations while serving as CEO of Caritas about the clerkships provided for medical students at the Caritas hospitals?
10	A. Yes.	10	A. Can you repeat that, please.
11	Q. And it states he's assistant vice president of medical education for BQHC, Wyckoff and Caritas hospitals. Do you see that?	11	Q. Did you have any conversations, whether internally or externally, regarding the provision of clerkship positions to medical students at the two Caritas hospitals?
12	A. Yes.	12	A. I had brief discussions with some of the clinical chairs of the different departments at the hospitals.
13	Q. And you say you don't recall if you've had any interaction with Mr. Romero when at Caritas?	13	Q. Did you have any discussions about what would be done when the hospitals were closed with regards to those
14	A. Yes, that's correct.	14	clerkship positions?
15	Q. And you have no understanding of what this first sentence of this e-mail meant?	15	A. No.
16	A. I don't.	16	Q. Did you see any memoranda or notes or correspondence aside from Exhibit 11 regarding what would be done with the clerkship positions?
17	Q. Did you -- were you aware of any contractual obligations to medical schools?	17	MS. HOEY: Objection.
18	A. I don't.	18	Q. If the hospitals closed?
19	Q. And you have no understanding of what this first sentence of this e-mail meant?	19	A. I don't recall.
20	A. I don't.	20	Q. Do you have any understanding of who was responsible for overseeing the provision of clerkship positions with hospitals at Caritas?
21	Q. Did you understand or know of any of the substance of that contract?	21	MS. HOEY: Objection to form.
22	A. No, I did not.	22	A. No.
23	Q. Did you know if the hospitals received money from Ross University?	23	Q. You can answer, Mr. Kastanis.
24	MS. HOEY: Objection.	24	A. No.
25	A. I don't recall.	25	Q. Did you ever have any conversations regarding the contract with Ross with anyone internally or externally while CEO of Caritas?
26	Q. Mr. Kastanis, you may answer.	26	A. No.
27	A. I don't recall.	27	Q. Exhibit 12, bates range BQHC17412 through BQHC17447. Mr. Kastanis, do you have Exhibit 12 in front of you?
28	Q. Were you aware at all that those contracts were for the provision of clerkships for medical students?	28	A. I think I will in about a minute. Hold on.
29	A. I didn't know any of the details.	29	Q. Okay. Take your time.
30	Q. Okay. But were you aware that those were for clerkship positions, the contracts?	30	A. Exhibit 12?
31	MS. HOEY: Objection. Asked and answered. You can answer again, Mr. Kastanis.	31	Q. 12, yes.
32	A. I did not know the details.	32	

1 A. Yes.  
 2 Q. The first page of Exhibit 12 is an e-mail from Edward  
 3 Dowling; is that correct?  
 4 A. Yes.  
 5 Q. Do you know who Edward Dowling is?  
 6 A. Yes.  
 7 Q. Who is he?  
 8 A. I believe he was an employee of Brooklyn Queens Health  
 9 Care. He had a planning role working for Brooklyn  
 10 Queens.  
 11 Q. Did you work with Mr. Dowling at all?  
 12 A. Yes.  
 13 Q. In what ways?  
 14 A. He provided planning information for Caritas Health.  
 15 Q. When you say "planning," what do you mean?  
 16 A. Overall plans mostly focused on the Department of  
 17 Health and, you know, community relations. He was  
 18 accessible to us as a support staff person.  
 19 Q. Was Mr. Dowling knowledgeable about Caritas?  
 20 A. I would say yes.  
 21 Q. Was Mr. Dowling familiar with Caritas in terms of the  
 22 fact that it was going into bankruptcy?  
 23 MS. HOEY: Objection to form. Ms. Whittlesey, I  
 24 don't know how this witness, unless he's a mind  
 25 reader, could be expected to tell you what Mr. Dowling

27

1 did or did not know.  
 2 Q. Mr. Kastanis, you can answer.  
 3 MS. HOEY: Note my objection. I think it's  
 4 calling for speculation.  
 5 Q. You may answer, Mr. Kastanis.  
 6 A. I don't know.  
 7 Q. Did you ever have any meetings with Mr. Dowling?  
 8 A. Yes.  
 9 Q. Did you ever discuss the closure of Caritas with Mr.  
 10 Dowling?  
 11 A. Yes.  
 12 Q. What did you discuss with Mr. Dowling in regards to  
 13 the closing of Caritas?  
 14 A. He assisted us in the closure plan.  
 15 Q. How did he assist you?  
 16 A. He assisted in our, in addressing the regulations and  
 17 stipulations from the Department of Health on how to  
 18 provide an orderly and safe closure of all the  
 19 facilities in Caritas.  
 20 Q. Did you rely on Mr. Dowling in providing information  
 21 on those regulations for the closure of Caritas?  
 22 A. To an extent.  
 23 Q. Did you perform your own checks on Mr. Dowling's  
 24 recommendations?  
 25 A. I don't recall.

1 Q. Did Mr. Dowling's recommendations require your  
 2 approval?  
 3 MS. HOEY: Objection to form.  
 4 A. They required the board's approval.  
 5 Q. Can you describe the process of Mr. Dowling making  
 6 recommendations in regards to the Caritas?  
 7 MS. HOEY: Objection to form.  
 8 Q. You may answer.  
 9 A. Please repeat.  
 10 Q. When Mr. Dowling made recommendations, can you  
 11 describe that process?  
 12 A. I don't recall.  
 13 Q. Did he make recommendations to you?  
 14 A. I don't recall.  
 15 Q. Were his recommendations always made directly to the  
 16 board?  
 17 MS. HOEY: Objection to form.  
 18 Q. You may answer.  
 19 A. I don't recall.  
 20 Q. All right. In regards to Exhibit 12, on Page 2,  
 21 BQHC17415, are you familiar with this document?  
 22 A. I don't have a lot of recall on this.  
 23 Q. Have you ever seen this document before?  
 24 A. Yes.  
 25 Q. Before your preparation for this deposition?

29

1 A. Yes.  
 2 Q. Who drafted this document, Exhibit 12?  
 3 A. One more time, please.  
 4 Q. Who drafted Exhibit 12?  
 5 A. I don't recall.  
 6 Q. Do you know if there is — Exhibit 12 says "Draft  
 7 Final" at the top. Do you see that?  
 8 A. I do.  
 9 Q. Do you recall if there was ever a final version of  
 10 this document?  
 11 A. Yes.  
 12 Q. Do you know when this document was finalized?  
 13 A. I don't recall.  
 14 Q. How do you know that there's a final document?  
 15 A. Because it was received and accepted by the New York  
 16 State Department of Health.  
 17 Q. So, this was a Caritas Health Care closure plan that  
 18 was filed with the New York State Department of  
 19 Health?  
 20 A. Yes.  
 21 Q. Was that before or after Caritas closed?  
 22 A. It was before and during.  
 23 Q. Did you see the final form before it was filed?  
 24 A. I don't recall.  
 25 Q. Would a document with the Caritas Health Care closure

1 plan require your approval as the CEO of Caritas?	1 Q. Have you had any conversations regarding the return of
2 MS. HOEY: Objection to form.	2 students to Wyckoff from Caritas?
3 Q. You can answer.	3 A. No.
4 A. No.	4 MS. HOEY: Objection to form. You're asking
5 Q. Did you contribute to the drafting of this document?	5 whether at the time he had any conversations?
6 A. Yes.	6 MS. WHITTLESEY: Yes.
7 Q. In what ways did you contribute?	7 MS. HOEY: Okay. Just so that was clear.
8 A. I don't recall.	8 A. My response is I don't recall.
9 Q. Would you say you were -- how involved were you in the	9 Q. Did you at the time of the drafting of this Caritas
10 drafting of this document?	10 closure plan, did you have any discussions regarding
11 A. I don't recall.	11 the Ross University contract?
12 MS. HOEY: Objection to form. Asked and	12 A. I don't recall.
13 answered.	13 Q. Any conversations regarding placement --
14 Q. Turning to Page 14 of this document but bates number	14 A. Gillian, we didn't hear that.
15 BQHC17428 of Exhibit 12.	15 Q. Mr. Kastanis, did you hear that?
16 MS. HOEY: Gillian, maybe it's what I received,	16 A. We didn't hear any of that.
17 but I don't have bates numbers on the exhibits.	17 Q. Okay. Did you have any conversations regarding the
18 MS. WHITTLESEY: You don't?	18 placement of any medical students from Caritas to
19 MS. HOEY: No. John, do you have bates numbers	19 Wyckoff at the time this plan was drafted?
20 on the exhibits?	20 A. I don't recall.
21 Q. Mr. Kastanis, is there a small number in the bottom	21 Q. Who provided information for this closure plan?
22 right-hand corner beginning with BQHC on your page?	22 MS. HOEY: Objection to form.
23 A. Yes.	23 A. I don't think I understand the question.
24 MS. HOEY: Okay.	24 Q. Who contributed to the drafting of this closure plan?
25 MS. WHITTLESEY: Okay. Barbara, I don't know	25 MS. HOEY: Objection to form.

31	33
1 why --	1 A. It was various parties.
2 MS. HOEY: Maybe it got cut off when it got	2 Q. Could you provide any names?
3 printed or something.	3 A. No. I just know that it was in general the management
4 MS. WHITTLESEY: I can e-mail you.	4 team at Caritas Health.
5 MS. HOEY: It's okay. I just want to make sure	5 Q. Who sent this draft to you?
6 the witness is on the same page.	6 A. I don't recall.
7 Q. We're on Page 14 of Exhibit 12, the Caritas closure	7 Q. Did Mr. Dowling assist in the drafting of this plan?
8 plan.	8 MS. HOEY: Objection. This has been asked and
9 MS. HOEY: I can find it.	9 answered, Ms. Whittlesey, now probably half a dozen
10 Q. BQHC17428. Mr. Kastanis, are you on that page?	10 times. The witness has said repeatedly that he
11 A. Yes, I am.	11 doesn't remember other than the specifics of who
12 Q. Great. Under where it says "Notice And Plan Re: St.	12 drafted this plan now, by my count at least four,
13 Vincent's Cardiology Fellows At Caritas," where it	13 maybe five, six times, and you keep asking the same
14 says "B. Medical Students," do you see that near the	14 question again.
15 middle of the page?	15 Q. Mr. Kastanis, did --
16 A. You're continuing to break up. It's really hard to	16 MS. HOEY: Ms. Whittlesey, I'd appreciate if you
17 understand what you're saying.	17 wouldn't just ignore my objections. I think this is
18 Q. Okay. Here it says, "Notice to Ross and AUC medical	18 getting to the point of harassing the witness. He's
19 schools," and then below that it says, "Approx 50	19 asked and answered that question. Please move on.
20 students to return to Wyckoff re Ross University	20 MS. WHITTLESEY: It is not my intention to harass
21 contract obligations."	21 the witness. Before I was inquiring as to who
22 Do you see that?	22 provided the facts that were incorporated into this
23 A. I do.	23 closure plan. Now, I was going to ask if any of the
24 Q. Do you have any understanding of what that meant?	24 regulatory information Buzz Dowling was providing to
25 A. I don't recall.	25 Caritas was incorporated into this plan.

1 MS. HOEY: What?  
 2 MS. WHITTLESEY: I'm transitioning into any  
 3 regulatory information that Buzz Dowling may have  
 4 provided.

5 MS. HOEY: Okay. I'm totally losing track of  
 6 what you're asking. This witness, Mr. Kastanis, did  
 7 not draft the closure plan. He cannot testify as to  
 8 what Buzz Dowling did or did not do. Mr. Dowling  
 9 drafted the closure plan. If you have questions about  
 10 the drafting of the closure plan, I suggest you ask  
 11 them of Mr. Dowling.

12 MS. WHITTLESEY: Mr. Kastanis said he doesn't  
 13 recall who drafted the closing plan. You have said  
 14 Mr. Dowling drafted it just now.

15 MS. HOEY: Okay.

16 Q. Mr. Kastanis, did Mr. Dowling draft the closure plan?

17 A. I don't recall.

18 Q. Okay. Turning to Exhibit 13, Mr. Kastanis, BQHC15550  
 19 with the second page BQHC15551.

20 A. Okay.

21 Q. Looking at the second page, BQHC15551, are you  
 22 familiar with this document?

23 A. I don't recall this one.

24 Q. Do you see where it says "From: John Kastanis"?

25 A. I do.

35 1 Q. Do you know what this document is?  
 2 A. I don't recall.

3 Q. Who drafted this document?

4 A. I don't recall.

5 Q. Why was Exhibit 13 drafted?

6 A. I don't recall.

7 Q. Did you have any conversations about Exhibit 13 when  
 8 you were the CEO of Caritas?

9 A. I don't recall.

10 Q. Did you draft Exhibit 13?

11 A. No.

12 Q. Who drafted documents on your behalf, for you while  
 13 working as CEO of Caritas?

14 A. There was various staff.

15 Q. Would you provide names, please.

16 A. I don't recall.

17 Q. Did you review this Exhibit 13?

18 A. Yes.

19 Q. Did you approve Exhibit 13?

20 A. I don't recall that.

21 Q. Was Exhibit 13 distributed to students at the Caritas  
 22 hospitals?

23 A. I don't recall.

24 Q. Would a memo like Exhibit 13 require your approval to  
 25 be distributed to students?

1 A. That I don't recall.  
 2 Q. Was it common practice for memos or correspondence  
 3 with your name from you to be distributed without your  
 4 approval?  
 5 A. I don't recall that.  
 6 Q. Did you have any conversations with Ross about Exhibit  
 7 13?  
 8 A. I don't recall.  
 9 Q. Did you have any internal conversations about Exhibit  
 10 13?  
 11 A. I don't recall that.  
 12 Q. Have you seen Exhibit 13 before?  
 13 A. I don't recall.  
 14 Q. You don't recall if you've ever seen it?  
 15 A. No.  
 16 Q. And did you have any conversations internally about  
 17 the subject matter of Exhibit 13?  
 18 A. I don't recall.  
 19 Q. As CEO of Caritas, did you allow memos or letters to  
 20 be distributed widely to an entire group without your  
 21 approval ever?  
 22 MS. HOEY: Objection to form.  
 23 Q. You can answer.  
 24 A. I don't recall.  
 25 Q. In what instances might a letter or memo be

37 1 distributed to a group without --  
 2 MS. HOEY: Objection.  
 3 A. Please repeat. You're breaking up.  
 4 Q. In what circumstances would it be permissible for a  
 5 letter or memo to be distributed to a group with your  
 6 name on it without you seeing it or giving approval?  
 7 MS. HOEY: Objection to form.  
 8 Q. You may answer.  
 9 MS. HOEY: The witness has not testified that any  
 10 of that occurred, Ms. Whittlesey. You have no  
 11 foundation to ask that.  
 12 Q. Mr. Kastanis?  
 13 A. I can't think of any.  
 14 Q. Excuse me.  
 15 A. I cannot think of any instances.  
 16 Q. Okay. Turning to Exhibit 7, bates range BQHC12682  
 17 through BQHC12784. Looking at the first page of  
 18 Exhibit 7, Mr. Kastanis, are you on that page?  
 19 A. The first page, yes.  
 20 Q. Exhibit 7, there's an e-mail from Edward Dowling to  
 21 you, "Subject: M. Smith," sent on January 12, 2008 at  
 22 7:56 P.M. Is that correct?  
 23 A. Yes.  
 24 Q. Do you recall did you receive this e-mail?  
 25 A. I don't remember this one.

1	Q. Looking at the body of the first page of Exhibit 7, "First cut at Malcolm Smith memo." What is the Malcolm Smith memo?	1	closure of services and allow for development of a reorganization plan that preserves services essential to these Queens communities."
2	A. I'm not sure.	2	I just don't understand the point of asking this witness questions about this document when this speaks for itself about what its purpose was, especially with respect to the portion I just quoted.
3	Q. Mr. Kastanis, you testified that you reviewed these exhibits in preparation for your deposition; is that correct?	3	MS. WHITTLESEY: Mr. Loughlin, are you objecting to this line of questioning?
4	A. Yes, I did.	4	MR. LOUGHLIN: I'm only pointing out the utter uselessness of this deposition as reflected in this particular line of questioning.
5	Q. And you do not know what the Malcolm Smith memo is?	5	MS. HOEY: I will also note, Ms. Whittlesey, that it's now 11:00, and I do have to terminate at 11:20, and we'll have to reconvene. When I spoke with your partner on the matter, George, two, three weeks ago to set this up, he told me literally he had 15 minutes worth of questions for Mr. Kastanis, 15 minutes.
6	MS. HOEY: Objection to form.	6	MS. WHITTLESEY: We did expect for this to move along more quickly than it has today.
7	A. I don't have good recall.	7	MS. HOEY: Yeah, but you've been asking 45 minutes worth of useless questions, but continue. We're going to have to stop at 11:20.
8	Q. Do you know what the Malcolm Smith memo is?	8	MS. WHITTLESEY: Well, maybe we should stop a little before 11:20 so we can discuss when we will
9	A. Just in reading it, I can understand what it says, but I don't recall what we did with this memo.	9	pick this back up.
10	Q. Looking at Page 2 of Exhibit 7.	10	MS. HOEY: How much longer do you have?
11	A. Yes.	11	MS. WHITTLESEY: That really depends on how things continue to go. I would hope that I would have no more than 30 more minutes left. But we can try and work through Exhibit 7, wrap that up and discuss when we'll pick this back up to finish the rest before you have to go for your other obligation.
12	Q. This is a memo that appears to be in draft form. Do you see where it says, "From: John Kastanis, President and CEO of Caritas Health Care"?	12	MS. HOEY: Note my agreement with Mr. Loughlin's comments. Why don't you continue.
13	A. Yes, I do.	13	Q. Mr. Kastanis, did you draft Exhibit 7?
14	Q. And do you see where it says "To: Hon. Malcolm Smith, Senate Majority Leader"?	14	A. I don't recall.
15	A. I do.	15	Q. Did you contribute to the drafting of Exhibit 7?
16	Q. And you see the subject is "Imminent closure of Caritas facilities"?	16	A. I don't recall.
17	A. Yes.	17	Q. Did you have any discussions with anyone internally about Exhibit 7?
18	Q. Why was this memo drafted?	18	A. Yes.
19	A. It was probably drafted seeking political support for our situation.	19	Q. Who did you have discussions with?
20	Q. What do you mean by "political support"?	20	A. I don't recall.
21	A. Malcolm Smith was an elected official from our area, and we were enlightening him to our pending bankruptcy and closure.	21	Q. Did Mr. Dowling -- on the first page you see this e-mail from Mr. Dowling refers to this as the "first cut." Did Mr. Dowling review the first draft of Exhibit 7?
22	Q. And what was the motivation in writing this? Were you seeking anything in return?	22	MS. HOEY: Objection to form. The witness is not Mr. Dowling. He cannot testify about what Mr. Dowling
23	MS. HOEY: Objection to form.	23	
24	Q. You may answer.	24	
25	A. I'm sure we were looking for political support for continuing state support to keep the hospitals open.	25	
26	Q. What do you mean by "state support"?	26	
27	A. I mentioned earlier that we were continuing to receive borrowings from the New York State Department of Health and Dormitory Authority, and we were looking to see if we could continue that support.	27	
28	MR. LOUGHLIN: This is Walter Loughlin speaking.	28	
29	I note that the second paragraph on BQHC12683 says, "We seek your intervention with the Governor to seek continued support of the New York Department of Health	29	
30	and NYS Dormitory Authority to provide ongoing operating support in bankruptcy to avoid a disorderly	30	

1 did.  
 2 Q. Well, did Mr. Dowling send you this first draft?  
 3 MS. HOEY: Objection to form. Ms. Whittlesey,  
 4 the e-mail comes from Mr. Dowling, okay. You cannot  
 5 ask this witness to tell you what another person did.  
 6 The question is improper.

7 Ask Mr. Kastanis, if you want to ask him, what he  
 8 did, not what someone else did.

9 Q. Mr. Kastanis, did you ask Mr. Dowling to draft a memo  
 10 like the one in Exhibit 7?

11 A. I don't recall.

12 Q. Did you ask to review a memo like the one that appears  
 13 in Exhibit 7?

14 A. I don't recall.

15 Q. Was Exhibit 7 ever created in final form?

16 A. I don't recall.

17 Q. Was a memo similar to Exhibit 7, a later draft or a  
 18 final version ever sent to Senator Malcolm Smith?

19 A. I don't recall.

20 Q. Would a memo to Senator Malcolm Smith from you require  
 21 your approval to be sent?

22 A. Yes.

23 Q. Looking at the second page of Exhibit 7, the first  
 24 page of the memo, the fifth paragraph down, the second  
 25 after "Background," the subtitle "Background."

1 Q. Okay. Turn to Exhibit 9. I'm at Exhibit 9, BQHC12669

2 through BQHC12673. Do you have Exhibit 9 in front of  
 3 you, Mr. Kastanis?

4 A. I do.

5 Q. Do you see where it says it's an e-mail from Mr.  
 6 Dowling?

7 A. Yes.

8 Q. To you?

9 A. Yes.

10 Q. And it's on January 13, 2009, about 1:53 P.M.?

11 A. Yes.

12 Q. And the subject of this is M. Smith?

13 A. Yes.

14 Q. Do you recall receiving these e-mails from Mr.  
 15 Dowling?

16 A. I do not.

17 Q. Did you have any conversations with Mr. Dowling  
 18 regarding this letter to Senator Smith?

19 A. I don't recall.

20 Q. Did you give Mr. Dowling comments or revisions of any  
 21 sort for the first cut of the letter to Senator Smith?

22 A. I don't recall.

23 Q. Do you have any idea why he would send you a third  
 24 cut?

25 MS. HOEY: Objection. Calls for speculation.

43

1 A. Yes.

2 Q. What --

3 A. We can't hear you.

4 MS. HOEY: That was breaking up, Gillian.

5 Q. Do you see the second sentence in the second  
 6 paragraph, "The CFO of Wyckoff also intermingled  
 7 Caritas funds with Wyckoff funds as needed to meet  
 8 Wyckoff's shortfalls and very quickly after initiating  
 9 operations, Caritas began to fail"?

10 Do you see that?

11 A. I do see it.

12 Q. Did you know of any intermingling of funds?

13 A. No.

14 Q. Did you know of any intermingling of funds after the  
 15 fact? At the time of the drafting of this letter, had  
 16 you heard of it?

17 A. No.

18 MS. WHITTLESEY: Well, it appears we are at  
 19 11:10. Should we schedule a time to pick this back  
 20 up.

21 MS. HOEY: Well, I don't know. Ms. Whittlesey,  
 22 why don't you keep going until 11:15.

23 Q. Mr. Kastanis, did you ever read this sentence, the  
 24 second sentence in Paragraph 2 under "Background"?

25 A. I don't recall.

45

1 Q. You may answer.

2 A. No.

3 Q. Did you respond to the first draft or cut of the memo  
 4 in any way to Mr. Dowling?

5 A. I don't recall.

6 Q. All right. Looking at Page 2 of Exhibit 9, bates  
 7 number BQHC12670, the second paragraph down from  
 8 "Background," looking to where the second sentence  
 9 that we discussed in the previous exhibit appeared, do  
 10 you see that that sentence is not in this draft?

11 A. I do.

12 Q. Do you know why that sentence was taken out?

13 A. Perhaps because it wasn't true.

14 Q. Did you have any discussion -- do you know that it  
 15 wasn't true or are you speculating?

16 A. I just know it wasn't true.

17 Q. You realize that you are testifying today under oath?

18 A. Yes.

19 Q. And your statement is that the sentence in Exhibit 7  
 20 regarding "The CFO of Wyckoff also intermingled  
 21 Caritas funds with Wyckoff funds as needed to meet  
 22 Wyckoff's shortfalls and very quickly after initiating  
 23 operations, Caritas began to fail" is untrue?

24 A. You broke up, but I think I got the gist of what you  
 25 said.

1 Q. I can restate it. Your testimony is that the sentence  
 2 in Exhibit 7 on the second page that we discussed  
 3 earlier, "The CFO of Wyckoff also intermingled Caritas  
 4 funds with Wyckoff funds as needed to meet Wyckoff's  
 5 shortfalls and very quickly after initiating  
 6 operations, Caritas began to fail."

7 It's your testimony that that sentence was not  
 8 true?

9 A. What I'm saying is that I wasn't aware of that.

10 Q. So, you did not know?

11 A. Correct.

12 Q. Why did you state that the sentence was not true?

13 A. Because I wasn't aware of any intermingling of funds.

14 Q. So, looking again at Exhibit 9, that second paragraph,  
 15 we discussed that that sentence doesn't appear in this  
 16 version. Do you know any reason, not that you didn't  
 17 hear something or think something, but do you know of  
 18 any reason or did you have any discussions of why that  
 19 sentence was taken out of this draft?

20 A. No recall.

21 Q. Did you review this third draft, Exhibit 9?

22 A. No recall.

23 Q. Did you give any attention to these drafts as they  
 24 were sent to you?

25 A. I don't remember.

1 MS. HOEY: Well, I have no desire to continue the  
 2 deposition, but I think Ms. Whittlesey does. Mr.  
 3 Kastanis, unfortunately I have a meeting, I have this  
 4 thing at 11:30 which I don't think is going to take  
 5 very long, but who knows. It's a judge.

6 It's an initial conference, so there's no real  
 7 drama involved. We're simply setting a discovery  
 8 schedule, but I have another meeting at 12:30.

9 So, Ms. Whittlesey, how much more do you have in  
 10 terms of questions?

11 MS. WHITTLESEY: I don't expect to have too much  
 12 more.

13 MS. HOEY: So, like 15 minutes?

14 MS. WHITTLESEY: Probably 15 to 30 minutes,  
 15 depending how things go.

16 MS. HOEY: Let me suggest this to accommodate  
 17 Walter, as well. If everyone can be a bit flexible,  
 18 when I get off this 11:30 call, I could e-mail you  
 19 all, including Mr. Kastanis. If everyone stays tuned,  
 20 I could be off the call by noon, and then maybe we  
 21 could reconvene it and finish it before Mr. Loughlin  
 22 has to leave for the flight.

23 Is that workable?

24 MS. WHITTLESEY: That would work for me.

25 MR. LOUGHLIN: It's fine with me, too.

47 49  
 1 MR. LOUGHLIN: I'm going to object to this line.  
 2 Ms. Whittlesey, I mean, I don't know if you know the  
 3 facts or not. I assume you know the facts, because  
 4 you're involved in the case, but the reference in the  
 5 earlier draft was to unauthorized transfers done by a  
 6 former CFO, which when they came to light he was  
 7 terminated, and it happened two years before Mr.  
 8 Kastanis arrived on the scene. This whole line, this  
 9 is pointless.

10 MS. WHITTLESEY: Mr. Loughlin --

11 MR. LOUGHLIN: Just go forward. It's your  
 12 deposition.

13 MS. WHITTLESEY: We have hit 11:17. I think we  
 14 should arrange a time to pick this up since Ms. Hoey  
 15 has to leave in three minutes. Is there a time later  
 16 this afternoon that works for everyone?

17 MS. HOEY: Mr. Kastanis, let's first ask you,  
 18 since you're the person who's most being  
 19 inconvenienced, and I understand -- Walter, are some  
 20 people traveling today?

21 MR. LOUGHLIN: There's a deposition scheduled for  
 22 9:00 in the morning in Nashville. I will be leaving  
 23 the office at 1:00 this afternoon. I could have  
 24 somebody sit on the end of the phone if there was a  
 25 desire to continue this deposition.

1 MS. HOEY: John, is that okay with you?  
 2 THE WITNESS: It's about the only space I have.  
 3 Today is a board meeting for me.

4 MS. HOEY: The court reporter obviously has to  
 5 sit and wait, which I don't want to inconvenience her  
 6 anymore than necessary.

7 MS. WHITTLESEY: Right.

8 MS. HOEY: Okay. So, let's do this. Let's get  
 9 off. Hopefully, my court conference won't take that  
 10 long. When I get off the court phone call, and as I  
 11 said, it's just an initial conference setting a  
 12 schedule, I will send an e-mail around to everyone.  
 13 If we can reconvene, we'll just get back on the  
 14 conference line.

15 MS. WHITTLESEY: Okay. That works.

16 MS. HOEY: All right. Great.

17 (Recess taken from 11:20 to 12:05.)

18 MS. WHITTLESEY: Is there anything we need to  
 19 discuss before we get started?

20 MS. HOEY: No.

21 MS. WHITTLESEY: Great.

22 CONTINUED EXAMINATION BY MS. WHITTLESEY:

23 Q. Mr. Kastanis, we are back from approximately a  
 24 40-minute break. Do you understand that you are still  
 25 under oath?

1 A. Yes, I do.  
 2 Q. During that break did you have any conversations  
 3 regarding the deposition with anyone?  
 4 A. No.  
 5 Q. All right. Before we get back into the substance, I  
 6 just want to cover a few quick things. Mr. Kastanis,  
 7 is Wyckoff paying your legal fees?  
 8 MS. HOEY: Objection. I'm going to direct the  
 9 witness not to answer.  
 10 MS. WHITTLESEY: On what basis?  
 11 MS. HOEY: On the basis that it's privileged  
 12 information and not relevant at all to the issues in  
 13 this case.  
 14 MS. WHITTLESEY: Are you objecting on the basis  
 15 of attorney-client privilege?  
 16 MS. HOEY: Yes.  
 17 MS. WHITTLESEY: On what foundation?  
 18 MS. HOEY: I don't have a case to cite to you,  
 19 Ms. Whittlesey, but I'm objecting and I'm directing  
 20 the witness not to answer on grounds of privilege and  
 21 complete lack of relevance. Could you please just  
 22 move on so we can finish the deposition. Mr. Kastanis  
 23 has a lot on his plate today.  
 24 MS. WHITTLESEY: I am ready to move on.  
 25 MS. HOEY: Okay, great.

1 A. Yes.  
 2 Q. In what ways did you work with Mr. Dowling in trying  
 3 to seek state funding for Caritas?  
 4 A. I thought I had answered that question earlier.  
 5 Q. You had mentioned a few things, but not specifically  
 6 in terms of seeking state funding.  
 7 A. As I said, he was, you know, available to us as  
 8 support staff in the area of planning.  
 9 Q. In regards to seeking funds from state agencies, did  
 10 you work with Mr. Dowling?  
 11 A. I don't recall.  
 12 MS. HOEY: Objection to form. Ms. Whittlesey, he  
 13 has answered that question.  
 14 Q. You may answer, Mr. Kastanis.  
 15 A. Again, he assisted in all areas of planning and  
 16 strategies, so I don't recall specifically if he  
 17 helped us with this matter or not.  
 18 Q. In his assistance with the Caritas closure -- let me  
 19 move on.  
 20 The e-mail below the top e-mail, the one from  
 21 you, Mr. Kastanis, do you see in the body, "This is  
 22 the draft report that we plan to submit to Senator Mal  
 23 Smith, as well as other elected officials"?  
 24 A. Yes, I see it.  
 25 Q. Did you ever submit the plan to any elected officials?

1 Q. I believe we were going to finish --  
 2 MS. WHITTLESEY: Court Reporter, can you refresh  
 3 my memory on what exhibit we were working through  
 4 before the break.  
 5 COURT REPORTER: 9.  
 6 Q. Mr. Kastanis, if I could bring your attention to  
 7 Exhibit 8, which is BQHC12653 through BQHC12658. Do  
 8 you have that in front of you?  
 9 A. I do.  
 10 Q. Okay. On the first page, bates number BQHC12653, at  
 11 the top of the page do you see where it's an e-mail  
 12 from Edward Dowling to you?  
 13 A. Yes.  
 14 Q. Dated January 13, 2009?  
 15 A. Yes.  
 16 Q. All right. At the bottom of the page or I guess the  
 17 bottom of that particular e-mail do you see Edward  
 18 Dowling's signature block?  
 19 A. I don't see it at the bottom of the page, no.  
 20 Q. Oh. It's at the bottom of that e-mail, kind of  
 21 halfway down the page.  
 22 A. Okay.  
 23 Q. It says, "Senior Vice President of Strategic Planning  
 24 for Brooklyn Queens Health Care, Inc." Do you see  
 25 that?

1 A. What plan?  
 2 Q. The attached memo that we were discussing earlier.  
 3 I'm sorry. It's the third page of this exhibit.  
 4 A. That I don't recall.  
 5 Q. In planning to submit this, did you have any  
 6 conversations with Mr. Dowling?  
 7 A. I don't recall.  
 8 Q. Did you have any conversations with anyone regarding  
 9 the plan to submit the memos to Senator Malcolm Smith?  
 10 A. I'm not recalling anybody specifically at this time.  
 11 Q. Any conversations, regardless of who they were with?  
 12 A. Yes.  
 13 Q. What were those conversations about?  
 14 A. I don't recall, other than the contents of this draft,  
 15 and I don't recall if we actually sent it.  
 16 Q. Okay. On the third page of this version of the draft,  
 17 it's a little further down on the page than the  
 18 earlier versions we've looked at, but it's still under  
 19 "Background," second paragraph.  
 20 A. Right.  
 21 Q. Do you see any mention of intermingling of funds in  
 22 this second paragraph?  
 23 A. No.  
 24 Q. Do you recall seeing this draft in Exhibit 8?  
 25 A. I don't recall.

1 Q. As CEO of Caritas in January of 2009, did you take any  
 2 other actions to seek funding from state agencies,  
 3 aside from drafting this memo?  
 4 MS. HOEY: Objection to form. I don't believe --  
 5 unless I'm mistaken, Ms. Whittlesey, I don't think the  
 6 witness testified that he drafted the memo.  
 7 MS. WHITTLESEY: I will rephrase.  
 8 MS. HOEY: Thank you.  
 9 Q. During January of 2009, as CEO are you aware of any  
 10 action taken by anyone at Caritas seeking state  
 11 funding aside from the drafting of this particular  
 12 memo to Senator Malcolm Smith?  
 13 MS. HOEY: Objection to form.  
 14 Q. You may answer.  
 15 A. I don't recall.  
 16 Q. Was the plan to send this letter in Exhibit 8 the only  
 17 action taken by Caritas to seek state funding during  
 18 2009?  
 19 A. I don't recall.  
 20 Q. If a version of this letter was sent to Senator  
 21 Malcolm Smith, what process would it have to undergo  
 22 to be approved and sent out by you or on your behalf?  
 23 A. It would be myself and the board of trustees and  
 24 perhaps some legal counsel.  
 25 Q. So, the board of trustees, legal counsel and yourself

1 MS. WHITTLESEY: I'm here to depose Mr. Kastanis,  
 2 not you.  
 3 MS. HOEY: Ms. Whittlesey, we all see the  
 4 statement. Do you have a question?  
 5 Q. Mr. Kastanis, do you see the second sentence in the  
 6 second paragraph that states "The CFO of Wyckoff also  
 7 intermingled Caritas funds with Wyckoff funds as  
 8 needed to meet Wyckoff's shortfalls and very quickly  
 9 after initiating operations, Caritas began to fail"?

10 A. I see it.  
 11 Q. Great. Exhibit 8, the one that we were looking at  
 12 previously, on the second page or I guess the third  
 13 page, the first page of the memo, second paragraph  
 14 under "Background," do you see that that sentence is  
 15 not included in this version?  
 16 A. Yes.  
 17 Q. Did someone at the hospital make the decision to  
 18 exclude that sentence from this memo?  
 19 A. I don't recall.  
 20 Q. Was that sentence not included because it would not  
 21 benefit Caritas to reveal that the hospitals had  
 22 intermingled funds in the past to meet Wyckoff  
 23 shortfalls?  
 24 MS. HOEY: Objection. Asked and answered.  
 25 MR. LOUGHLIN: I'll object, too. Ms. Whittlesey,

55  
 1 would have to approve a memo like this before it could  
 2 be sent out?  
 3 A. Normally, that's what would happen, but I don't recall  
 4 what happened in this case, if we did send this letter  
 5 at all.  
 6 Q. Okay. All right. So, looking back at Exhibit 7,  
 7 which we looked at earlier, on the second page, let me  
 8 know when you have that in front of you, please.  
 9 A. I have it.  
 10 Q. All right. So, back to that second sentence in the  
 11 second paragraph under "Background."  
 12 A. Yes.  
 13 Q. In this earlier version draft of this letter that was  
 14 planned to be sent, but we don't know if it was sent,  
 15 "The CFO of Wyckoff also intermingled Caritas funds  
 16 with Wyckoff funds as needed to meet Wyckoff's  
 17 shortfalls and very quickly after initiating  
 18 operations, Caritas began to fail," correct?  
 19 MS. HOEY: Objection to form. Is there a  
 20 question there? I honestly don't know what your  
 21 question is. You just read the witness something from  
 22 this letter. Is there a question?  
 23 Q. Do you see it?  
 24 MS. HOEY: Yes, we all see it, with all due  
 25 respect.

57  
 1 this is, you know -- I don't know whether you're  
 2 trying to be affirmatively misleading or whether you  
 3 just don't know the facts. As I indicated before, the  
 4 episode that you're referring to that was alluded to  
 5 in the draft --  
 6 MS. WHITTLESEY: Mr. Loughlin --  
 7 MR. LOUGHLIN: Just a second. Let me put this on  
 8 the record. Occurred, as the language that you keep  
 9 quoting indicated, shortly after Caritas opened, which  
 10 was in the first quarter of 2007.  
 11 It was not concealed from anyone. When it came  
 12 to light, all the officials at the Department of  
 13 Health were notified, and the person who was  
 14 responsible for the unauthorized transfers was fired.  
 15 That's not disputed.  
 16 If you want a stipulation that the sentence that  
 17 appears in one draft does not appear in the other  
 18 multiple drafts which you sent along as exhibits, I  
 19 will stipulate to that.  
 20 MS. HOEY: I will stipulate to that. The  
 21 sentence appears in what looks like a first draft. It  
 22 doesn't appear in the other drafts. I will also  
 23 stipulate that we all agree that, as Mr. Loughlin  
 24 points out, the individual who was responsible for  
 25 those transfers was terminated in 2007, approximately

1 18 months before Mr. Kastanis was ever hired.

2 I cannot testify for Mr. Kastanis, but I don't  
3 think he ever met or had any contact with that person.

4 MS. WHITTLESEY: Ms. Hoey, I completely agree  
5 that you cannot testify on behalf of Mr. Kastanis.

6 MS. HOEY: So, why don't you ask him the  
7 questions. Ask him whether he knows anything about  
8 any unauthorized transfers. Ask him whether he ever  
9 met or had any conversation with anyone about any  
10 unauthorized transfers, and then you'll get the  
11 testimony on the record and we can be done.

12 MS. WHITTLESEY: I'd like to object to these  
13 extended speaking objections. I'd also like to object  
14 to any coaching of the witness that is occurring.

15 MS. HOEY: Nobody is coaching the witness. I'd  
16 like to take the deposition for you. Please, Ms.  
17 Whittlesey, please move it along. Ask the questions.

18 MR. LOUGHLIN: The witness did testify in the  
19 earlier portion of this deposition that he had no  
20 knowledge of the intermingling of funds, period.

21 MS. HOEY: You're correct. That's correct.  
22 That's why I objected.

23 MS. WHITTLESEY: That was not my last question.

24 MS. HOEY: Then what was your last question?

25 MS. WHITTLESEY: Court Reporter, could you please

59 1 read back my last question.

2 MS. HOEY: Oh, Lord.

3 (The reporter read back the record as requested.)

4 **Q. Mr. Kastanis, you may answer.**

5 A. I don't know.

6 **Q. Was the sentence removed because it would hurt  
7 Caritas' chances of receiving state funding?**

8 MS. HOEY: Objection.

9 **Q. You may answer.**

10 A. I have no response. I don't know.

11 MS. WHITTLESEY: I believe that was all I need to  
12 cover.

13 MS. HOEY: I have no questions for the witness.

14 Mr. Loughlin, do you have any questions for Mr.  
15 Kastanis?

16 MR. LOUGHLIN: No, I don't. Thank you, Mr.  
17 Kastanis.

18 MS. WHITTLESEY: Thank you, Mr. Kastanis.

19 MS. HOEY: Thank you, Mr. Kastanis.

20 THE WITNESS: You're welcome.

21 (Whereupon the deposition ended at 12:22 P.M.)

22

23

24

25

1 C E R T I F I C A T E

2 I, Carol A. Whitney, a Certified Shorthand  
3 Reporter and a Notary Public in and for the  
4 Commonwealth of Massachusetts, do hereby certify that  
5 the deposition of JOHN N. KASTANIS was taken and  
6 transcribed by me; that the witness provided  
7 satisfactory evidence of identification as prescribed  
8 by Executive Order 455 (03-13) issued by the Governor  
9 before being duly sworn by me; that he was thereupon  
10 examined upon his oath and that the transcript  
11 produced by me is a true record of the proceedings to  
12 the best of my ability; that I am neither counsel for,  
13 related to, nor employed by any of the parties to the  
14 action in which this deposition was taken, and further  
15 that I am not a relative or employee of any attorney  
16 or counsel employed by the parties thereto, nor am I  
17 financially or otherwise interested in the outcome of  
18 the action.

19 My Commission Expires:

20 June 13, 2014 Notary Public

21  
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